

Appl. No. 10/013,078
Amdt. dated July 17, 2006
Reply to Office Action of April 18, 2006

Remarks

The present amendment replies to the Office Action mailed April 18, 2006. That action made an election/restriction requirement with respect to newly submitted claims 14-22, and withdrew claims 14-22 from consideration citing 37 C.F.R. 1.142(b) and MPEP § 821.03. Claims 5-12 were rejected under 35 U.S.C. 102(b) based on Humble et al. U.S. Patent No. 4,792,018 (Humble). Claim 13 was rejected under 35 U.S.C. 103(a) based on Humble. Claims 5 and 14 have been amended to be more clear and distinct. Claim 8 has been canceled without prejudice. New claims 23-25 have been added. Claims 5-7 and 9-25 are presently pending

Election/Restriction Requirement

The Official Action states as its basis for restriction "In this case, the process as claimed can be practiced by another, materially different apparatus, or by hand, such as by apparatus requiring the goods be passed, in service, by hand from the incoming goods path into the goods collection zone. This analysis is traversed as unsupported with respect to the claims as previously filed in the RCE or as presently amended.

Claims 5 and 14 are closely parallel and directed to the same invention. Neither one requires goods to be moved by a conveyor or by hand. Thus, both the claimed method and apparatus are generic with respect to how goods travel from "the incoming goods path into the goods collection zone." Consequently, reconsideration and withdrawal of the restriction requirement are requested. By contrast, originally filed claims 1-4 all required a segregation device not found in either claim 5 or claim 14. In the event the requirement is not withdrawn,

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applicant requests the opportunity to discuss the requirement with the Examiner by phone, and provisionally elects the Group I claims.

Further, new claim 25 is a system claim written in means plus function language which parallels claim 5 and serves to link claim 5 and claim 14. Consequently, the election/restriction requirement should also be withdrawn on this alternative ground as well.

The Art Rejections

The art rejection hinges on the application of Humble standing alone. As addressed in greater detail below, Humble does not support the Official Action's reading of it and the rejections based thereupon should be reconsidered and withdrawn. Further, the Applicant does not acquiesce in the analysis of the cited reference made by the Official Action and respectfully traverses that analysis. While Humble shows a collection zone, its bagging area 14, the Official Action chooses to mischaracterize Humble's secured zone 15 as a "goods collection zone". The reason for doing this is apparent, and that reason is because there is no scale in Humble's bagging area 14. One embodiment of the present invention claimed by the claims as presently amended addresses a security arrangement as described at page 11, lines 15-19 in which "Once all the goods being checked out by a particular customer have passed through onto the security weigh scale 28 (or 34), the processor is configured to obtain a weight measurement from the security scale 28 of the total weight of the goods received in the collection zone 24."

Humble does not teach and does not make obvious such an arrangement. To the contrary, Humble's weighing scale 43 is located under his entry conveyor 12. Humble, col. 5, lines 62-64. Humble specifically teaches that the customer passes each item, one by one, UPC Code down

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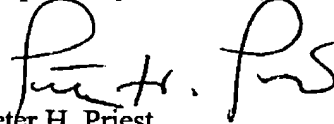
over reader 10 and deposits the item on entry conveyor 12. Humble, col. 4, lines 65-67. The items are transported by conveyors through secured zone 15. Col. 4, line 68-col. 5, line 2. It appears from Humble Fig. 2 that entry conveyor 12 ends beyond light curtain 31 where exit conveyor 13 begins. Humble col. 4, line 28 introduces "outfeed or exit conveyor 13" and col. 5, lines 43-48 indicate an exit sentry 34 is located at the junction between entry conveyor 12 and exit conveyor 13 within the secured zone.

Humble's brief discussion of its weight measurement and weigh routine is found at col. 5, lines 62-68; col. 6, lines 21-25, and col. 9, lines 24-41. If the measured article weight is not within the target, the conveyor is reversed. This operation does not teach and does not make obvious the claims as presently amended.

Conclusion

All of the presently pending claims, as amended, appearing to define over the applied references, withdrawal of the present rejection and prompt allowance are requested.

Respectfully submitted,



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